

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

United States of America

v.

Aven Sellers

Crim. No. 4:11-cr-02161-TLW-9

Order

This matter comes before the Court for consideration of a letter from Defendant in which he writes “to the court to ask if [he] can file a motion (2255).” ECF No. 957. He has not filed an actual 28 U.S.C. § 2255 petition.

As required by Local Civil Rule 83.VIII.03, if Defendant wishes to seek relief pursuant to § 2255, he must file his petition on the appropriate forms or forms substantially similar. He is directed to file any such petition on the appropriate or substantially similar forms within 30 days of the date of this order. He may attach this filing to the appropriately-filed § 2255 petition, if he so chooses, so that it may be deemed part of that petition. Any proper § 2255 petition filed within the time allotted will be construed as having been filed on the filing date of this filing.

The Clerk is directed to send Defendant the appropriate § 2255 forms.

Additionally, Defendant requests that the Court appoint him a lawyer for purposes of filing a § 2255 petition. As he alludes to in his motion, the Court has appointed the Federal Public Defender to represent defendants sentenced under the Armed Career Criminal Act (“ACCA”) who may be impacted by the Supreme Court’s decision in *Johnson v. United States*, 135 S. Ct. 2551 (2015). No. 3:15-mc-00325-TLW, ECF No. 1. However, this appointment order is limited to ACCA defendants and does not extend to defendants who were classified as career offenders for sentencing guideline calculation purposes, such as Defendant. There is no general right to appointment of habeas counsel, and he has not set forth an adequate basis to support the

appointment of counsel in this case. *See* 18 U.S.C. § 3006A(a)(2)(B); *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987) (“We have never held that prisoners have a constitutional right to counsel when mounting collateral attacks upon their convictions . . . and we decline to so hold today.”). Accordingly, his request for counsel is **DENIED**.

IT IS SO ORDERED.

s/ Terry L. Wooten

Terry L. Wooten
Chief United States District Judge

February 25, 2016
Columbia, South Carolina